

Liquidation of the inheritance in Czech and Austrian legislation

This diploma thesis is focused on the over-indebtedness of the estate in two countries, namely in the Czech Republic and in the Republic of Austria. Its main goal is to analyse the current situation, compare the differences between the two countries and point out the problems of current legislation. In this thesis, there was mostly used descriptive method, in combination with the comparative method.

The Austrian legislation was chosen for comparison because of the history that unites the two countries. Austria-Hungary, of which both countries were part, provided the basis for the current standards of both countries.

The text of the diploma thesis itself is divided into two main parts. The first of them is focused on legislation in our territory. At the beginning, the reader is acquainted with the development of legislation, which ends with the currently valid laws. Furthermore, the estate proceeding is described, thus its process, the main institutes and the position of the notary as a court commissioner. Then, the assumptions under which the liquidation of the inheritance is ordered are analysed and also its influence on further proceedings. There is also analysis of the procedure of comparison of assets and liabilities, the methods of monetization and also the stages of the distribution of the yield. Another point of this thesis is to show possibilities of potential inheritors and creditors during the estate proceedings and also during the liquidation of the inheritance.

The second part describes the Austrian legislation, its historical development and also the connection with the norms in the Czech Republic, which is reflected in the almost identical regulation of inheritance proceedings. However, the main difference is in the procedures, which aim to satisfy at least partially the creditors' claims from the estate. In the Czech Republic, this goal is ensured through the liquidation of the inheritance, in Austria the "classic" insolvency proceeding is used for this purpose. However, the place of the debtor in which he occupies the lying inheritance, which is represented by inheritors or the administrator of the inheritance. Part of the second part is also a summary comparison of both legal regulations.

Klíčová slova: debts, notary, inheritance